

Testimony of
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Before the
U.S. House Oversight and Government Reform Committee
Subcommittee on Government Operations
On
Examining Tax Exempt Private Activity Bonds
For All Aboard Florida's Brightline Passenger Rail System

Submitted by



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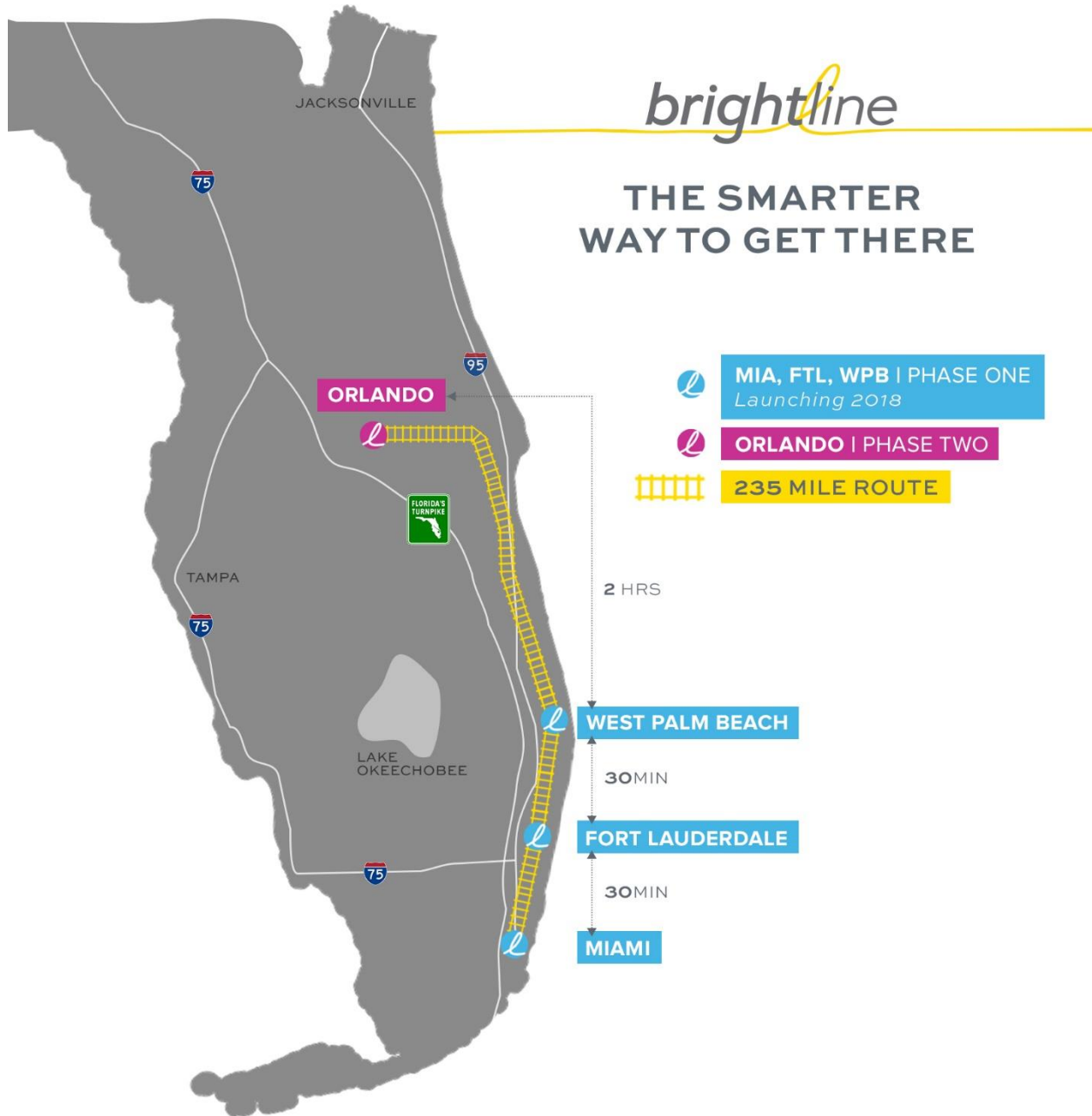
Introduction

Chairman Meadows, Ranking Member Connolly and members of the subcommittee, thank you for the invitation to participate in this hearing. My name is Patrick Goddard, and I am the President and Chief Operating Officer of Brightline. I am pleased to share a private industry perspective on the opportunities to introduce intercity passenger rail as an important example of the kind of transportation solutions needed for cities across the country where increased mobility options are essential to support prosperity.

Background

Brightline, and its holding company All Aboard Florida, are wholly owned subsidiaries of Florida East Coast Industries, LLC (FECI) a transportation, infrastructure, and real-estate development company based at our signature MiamiCentral station in downtown Miami.

The All Aboard Florida project, now branded as Brightline, was established in 2012 to pursue passenger rail opportunities on a private, for-profit basis. FECI traces its roots to the late 1890's and the company founded by Henry Flagler who first introduced an integrated rail network into Florida. That railroad gave rise to the growth of most of what is now the country's third largest state. Originally the system was built as a railroad that carried passengers from points north to new development projects along the Florida coastline, and also carried the freight to support the needs of those people and of those building the communities emerging along the new infrastructure backbone. In the late 1960's the passenger service ceased operations, (as was commonplace with many US passenger rail routes) but the freight service continued to support the growth of the state. After some 120 years of continuous operations, the original railroad remains a profitable private enterprise.



A Vision for Passenger Rail in America

Leveraging the legacy of the original company and its historic assets which include a century of previous investment into railroad infrastructure, All Aboard Florida has invested \$2 billion of private capital over the last 5 years, invested entirely in the United States with all expenditures for our trains, track materials and labor in compliance with Buy America standards, toward a reintroduction of passenger rail service to major Florida cities. This express, intercity passenger train, operating under the brand name Brightline, is a newly created, consumer-oriented brand built to support an optimistic vision for what it means to travel by train in America. Brightline is being introduced in two phases, with phase one service operating between Miami, Fort Lauderdale and West Palm Beach and phase two service extending from West Palm Beach to Orlando, terminating at the Orlando International Airport. There are additional potential expansions, including Tampa and Jacksonville that are being studied. Phase one is currently running introductory service between West Palm Beach and Fort Lauderdale, with Miami service set to begin in the coming weeks. This initial phase is an all-important first step toward a vision to fully connect the Southeast and Central Florida markets - two driving forces of the overall economy of the third largest state in the country.

Today, 400 million trips are taken annually in this market, relying on roads and airways that are among the most congested in the nation. Driving speeds on the interstate 95 highway in south Florida currently average 34 miles per hour. With nearly half of the state's 20 million residents living in communities connected to the railroad corridor, and many of the more than 116 million visitors to Florida attracted by the complementary attributes of Central Florida attractions and South Florida's beaches and culture, enhanced mobility between these markets is vital to meeting the growth trajectories in this region.

These trips, which we see as "too long to drive and too short to fly" represent the opportunity for the next generation of American train service. Today's market sensibilities are vastly different than those of 1969 when intercity travel by train in Florida effectively stopped. The demand for alternatives to private cars on crowded roads has never been clearer. Demand driven by growth, dysfunction generated by congestion and the social priorities of a modern demography all support the future prospects for passenger rail as a key component of transportation networks.

Only six years since it was conceived, Brightline is now carrying customers in a fleet of state-of-the-art, fuel-efficient trains, to three new stations, across 70 miles of modernized railroad infrastructure that will incorporate the most advanced signaling and safety technology available, including Positive Train Control.



In addition to the new train operations, we have built new multi-modal transit hubs in the heart of the existing downtown cores of three of Florida's most important cities. With over 1.5 million square feet of mixed-used development in and around our stations, an important second component of the project will welcome new occupants concurrent with the Brightline trains. These new urban environments benefit from added transit activity and also contribute to the use, and therefore viability, of the new train system by increasing the density and proximity of many new customers.



MiamiCentral Station

A major component of Brightline's intermodal advantage is its direct connection to the adjacent MetroRail and MetroMover systems and the cross-utilization of commuter and intercity rail on our MiamiCentral station platforms. As a result of a successful collaboration between All Aboard Florida and the South Florida Regional Transportation Authority (SFRTA), regional commuters will soon be able to get to downtown Miami with a one-seat ride on the TriRail system, the first downtown connection for this public system since it began in 1985.

Brightline offers an efficient and sustainable transportation system that will connect communities, bringing a much needed and often overlooked component of successful urban redevelopment efforts. Particularly in Miami, our station and new corporate headquarters is located in a long-neglected and economically disadvantaged area known as Overtown. This once bustling African-American community was effectively marginalized when the new interstate system split Miami's downtown neighborhoods in the 1960's.

With our commitment to the Overtown community, which includes hiring preferences for local residents amounting to more than 24% minority participation in our workforce for the downtown Miami station, we are proving to be the catalyst that has already encouraged others to re-invest in this historic part of downtown and bridge a decades long divide in Miami's city center.

With the second phase of Brightline, the service will stretch north from West Palm Beach for 180 miles and ultimately connect into a new multi-modal station that is the center piece of the Orlando International Airport's terminal expansion. Orlando Airport's Intermodal Terminal Facility (ITF) is already completed and will ultimately host four train and transit operations, including an Automated People Mover, currently carrying passengers between terminals; Central Florida's commuter rail system known as SunRail; a future light rail system to Orlando's tourist district and convention center, and finally, All Aboard Florida's Brightline intercity passenger rail system.

It should be noted Orlando Airport planned their ITF in the 1990's and designed it to accommodate a future high speed or express intercity rail system long before All Aboard Florida's Brightline was conceived. With the eventual demise of previous attempts to launch a publically funded high speed intercity rail, All Aboard Florida approached the airport authority with a proposal to rent that portion of the terminal originally planned for intercity high speed rail. Utilizing this space under a fair market lease agreement, Brightline is currently a tenant in that facility, paying rent today for a system that will not begin operating for another two to three years. With this leg the connection to Central Florida will be accomplished; and as a result, the linking of a major international air gateway to an intercity passenger rail network will put this facility among a small group of American airports that have achieved this level of connectivity.

The further integration of the various other transportation systems that convene at the airport, in particular Central Florida's SunRail commuter system, will be facilitated with direct connections and immediate proximity.



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JOINT VENTURE

Orlando International Airport
South Airport Intermodal Terminal Facility
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aerial
Innovations 

In fact, each of our station facilities have been planned and constructed to optimize connections and ease of cross-utilization between all existing and planned future transit systems.



Job Creation

When completed, All Aboard Florida's investment in Brightline will exceed \$3.5 billion. In addition to creating up to 10,000 jobs during the design and construction phases of the rail system and thousands more associated with train operations and ancillary development, Brightline is an investment in STEM related education and employment opportunities. From our advanced technology train equipment with fuel efficient, environmentally friendly EPA Tier 4 compliant engines, to modern signaling and communications systems designed to enhance safety and produce a high quality customer experience, Brightline is making a commitment to a workforce training regime that includes skill-based apprenticeship education and diversity in hiring. Our minority workforce currently exceeds the minimum Florida Department of Transportation benchmark for public infrastructure projects.

We believe Brightline is a prototype of what a future private passenger rail workforce may look like. As a new company operating alongside an existing, long-established freight company we find that through relationships in the form of joint-use agreements and joint-ventures, such as with our dispatch and infrastructure maintenance operations, we can create a working partnership that includes union and non-union personnel working collaboratively.

Through equity in pay and benefits, such arrangements can contribute to healthy working conditions, healthy companies and safe joint operations.



Investment Thesis

Our business plan is quite simple. We believe that markets comprised of city pairs that are 250-350 miles apart present opportunities for trains to provide a more efficient, comfortable, and reliable alternative to cars and planes. The addition of integrated real-estate development aligns two economic engines that revitalizes the urban landscape and addresses a state goal to connect the major population centers by intercity rail.

The lack of analogous precedent for operating systems within the United States meant that lessons needed to be learned from a comprehensive study of the global markets where profitable rail services can be found. In addition to transportation analogs, we gleaned knowledge from the perspective drawn from other hospitality service offerings as a benchmark for a new transportation service. Combining these with best-practice observations from examples of Transit-Oriented Development (TOD), we developed a balanced approach to

breaking the inertia that has beset many initiatives similar to ours being considered elsewhere in America.

The advantages of a private-sector model, which exerts efficiency from all parts of a process and focuses on the time value of money as a central tenet of achieving profitability, is also a key aspect of the overall business thesis.

Opportunities for Government and Industry Cooperation

Our experiences have sharpened our perspective on several key factors where enhanced interaction between government and industry will contribute to more and faster results. The objective should be to encourage the billions of dollars of capital earmarked for infrastructure to be deployed against creating *new* systems that will generate growth, and contribute new capacity into our transportation infrastructure networks.

There is ample equity capital available in the current markets targeting the prospects for infrastructure and transportation as long-dated assets worthy of investment. The challenge is that the majority of this capital will move toward existing and established projects and therefore not generate incremental assistance to the core challenge of capacity.

We applaud the most recent efforts by Congress to address the most critical areas that will help pioneering efforts such as ours; streamlining of complicated regulatory processes, and enhancements to the debt markets that must accompany equity investments to produce new projects.

Our own experiences with expanding our business into its second phase, which represents an incremental investment of more than \$2 billion, clearly demonstrate these points.

Financial incentives also factor heavily in these decisions. As the demand for services such as Brightline continue to emerge, the opportunity to attract private capital to support this new infrastructure can be catalyzed through efficient utilization of already existing programs such as Tax-Exempt Bonds, and the RRIF program.

Tax-exempt Private Activity Bonds (PABs) have long been an effective method of attracting private financing of projects that provide public benefits. Brightline's eligibility for PABs fall under a provision of the 2005 transportation legislation known as SAFETEA-LU, which

amended the Internal Revenue Code to add highway and surface freight transfer facilities (expressly defined as “any” surface transportation project which receives Federal assistance under title 23, United States Code) to the types of privately developed and operated projects for which private activity bonds (PABs) may be issued. This change allows private activity on these types of projects, while maintaining the tax-exempt status of the bonds.

Contrary to the claims of Brightline opponents, taxpayer’s are not at risk by the use of Private Activity Bonds. The Federal government does not guarantee the bonds, subsidize the interest rate on the bonds, or assume any liability for the project. They do not impact the credit, borrowing or debt load capacity of the state, counties or municipalities.

Private investors assume 100% of the risk and, while the investor receives a tax-credit, federal, state, and local governments receive millions of dollars in new tax revenue which result from the investment.

In Florida, it is estimated that Brightline will generate more than \$650 million dollars in tax revenue to federal, state and local governments and \$6 billion in positive economic impact over eight years.¹

As our project demonstrates, Brightline will continue to serve as an engine for growth and prosperity for Florida cities and local governments for years to come.

It should be noted that in the United States there are only two privately led efforts to construct and operate intercity passenger rail, Florida’s Brightline, and another in Texas. There are many other city-pairs across America with distances considered “too long to drive too short to fly” that can successfully and sustainably operate a passenger rail system without public subsidies.

The old mantra that no passenger rail service can make money is simply not true. If improving our nation’s infrastructure is truly a bi-partisan goal, as is often stated in Washington, then this is the kind of incentive that all should agree is most impactful on our economy and least impactful on taxpayers. Project such as this will jump start our national effort to repair our crumbling infrastructure and modernize our existing transportation systems, create jobs and generate new tax revenues.

¹ Washington Economics Group, May 2014

Safety

This committee has also indicated its interest in our safety plan in the operation of this groundbreaking and transformative project. Let me be clear, in the design and operation of this passenger railroad safety has always been our foremost goal.

In phase two of this project, our existing railroad crossings will be significantly upgraded with additional safety components and traffic warning systems under the strict supervision of the Federal Railroad Administration (FRA) and Florida Department of Transportation (FDOT). Conducted by a team of engineers from FRA, FDOT, AAF, and each county and city public works department, every highway-railroad crossing between Miami and Cocoa was subject to on-site inspection and evaluation to determine the scope of improvements necessary for the operation of higher speed passenger rail.

In the course of this evaluation, the FRA determined that they would require AAF to upgrade crossings to meet national “Sealed Corridor” standards. The Florida DOT Secretary reiterated this same requirement in a 2014 response to an inquiry from the Treasure Coast Regional Planning Council stating “We will require AAF to comply with the Federal Railroad Administration’s guidelines for crossing safety as specified for higher speed passenger rail services.”²

We have met those requirements, which have been confirmed by the FRA in separate correspondence, stating that AAF’s “plans comply with the grade crossing mitigation requirements in FRA’s Final Environmental Impact Statement (FEIS).”³ And in a follow up: “Let this email response serve as an official confirmation that the proposed set of grade crossing design plans (herein, “alternative design”) as identified below still complies with the “Sealed Corridor” concept as outlined in FRA’s Highway-Rail Grade Guidelines for High Speed Rail, conforms with the requirements of the ON-SITE FIELD ENGINEERING REPORTS, and meets the intent as specified in FRA’s FEIS document dated August 2015.”⁴

² June 4, 2014 letter from FDOT Secretary to the Treasure Coast Regional Planning Council

³ May 3, 2016 letter from Patrick Warren, Deputy Assoc. Administrator for Safety Compliance, FRA

⁴ August 24, 2016 email from Frank Frey, Acting Staff Director, Signal and Train Control Division, FRA

The efficiencies and safety benefits of major rail infrastructure and grade crossing upgrades of the level Brightline is installing is plainly illustrated in a 2015 safety study commissioned by Indian River County, one of those counties opposing this railroad. The report concluded that they “can find no decrease in Grade Crossing Safety with the advent of AAF. To IRC's benefit, the additional capacity improvements, other additional infrastructure, safety improvements, upgraded crossing warning devices (regulated by Federal Railroad Administration (FRA), implementing suggestions for quiet zones, fencing, pavement markings, a public awareness campaign and a finding of no additional closure time with the additional trains, draws a conclusion that there is no adverse Safety impact to IRC from AAF. If the proposed upgrades actually occur, they will improve and update the safety factors that exist today.”

It should be noted that Indian River County, not satisfied with their consultant's conclusion, did not make public the report until questioned by the local newspaper.

A major component of our commitment to safety was the restoration of the previously removed second track that will allow for joint freight and passenger use. The FEC Railway has always been considered the gold standard for safety and the early adoption of new technologies, such as the addition of Automatic Train Control (ATC) in the 1980's. ATC is a forerunner to PTC, which is currently being installed and will be operational by the end of 2018 in phase one. PTC will be fully installed in phase two by the time it begins service in 2021.

We are one of the first railroads that will utilize a new technology, Vehicle Presence Detection (VPD), a warning system that will automatically open an exit gate for a vehicle stopped on the track while simultaneously warning an approaching train.

In South Florida where Brightline began limited service in January, rail opponents to our north have highlighted recent fatalities as a reason to stop expansion to its waiting station in Orlando. One Member of Congress even demanded we shut down altogether.

Let's look at facts. Not a single incident on our railroad has been due to a failure of safety systems associated with this rail service. Those who have been injured or tragically died have either ignored warning signals by crawling under a gate, going around a gate to beat the train, or have entered the corridor for purpose of suicide.

In fact, two people have committed suicide on our tracks since last year, with a third suspected but unconfirmed suicide. Suicide by rail is a major problem that should be addressed in another forum in the context of mental health issues and opioid abuse.

Two other deaths have been the result of people willfully disobeying traffic warning signals, which is the same as running a red light and carries the same penalty under Florida law. Toxicology reports have confirmed each individual has been impaired by drugs or alcohol.

Let me put this in context with some other statistics. In South Florida we have a nearby commuter rail (TriRail) that has been operating for about 30 years. In 2017 they recorded 17 fatalities.ⁱ

Central Florida's SunRail commuter rail has recorded nine fatalities in 2017, three of them ruled suicide.

Florida is ranked number two in the nation in pedestrian deaths on highways with 652 deaths in 2016 and 303 in the first half of 2017.ⁱⁱ

Within Brightline's phase two operating corridor of the Treasure Coast counties, represented in part by the Member who requested this hearing, there were 655 pedestrian accidents resulting in 36 deaths in 2017.ⁱⁱⁱ

Railroads are among the safest forms of transportation. Less than 3% of all transportation fatalities are by train according to the National Safety Council statistics.

However, be assured, Brightline is not content with simply accepting injuries and deaths when people trespass on active railroads or ignore warning signals. The key to safety is Education, Engineering & Enforcement. With these words as our guidepost, we have taken extraordinary extra steps to educate the public about safe behavior around railroads and to explore additional ways to reduce incidents.

Since Brightline began service in January of this year, we have added a number of initiatives to our ongoing safety campaign:

- We have placed 20 Variable Message Signs (VMS) at major crossings with warning messages about new train activity

- Working with Operation Lifesaver, we have trained 40 Brightline Teammates as authorized Operation Lifesaver Volunteers
- We have broadcast over 1000 public service announcements on TV and Radio in English, Spanish and Creole
- Brightline Teammates have been deployed at major highway – railroad crossings to meet with pedestrians, hand out flyers in nearby businesses, and engage and educate our South Florida communities about the importance of staying safe around active railroad tracks
- Brightline Safety and Security personnel have hosted more than a dozen First Responder training sessions
- More than 92,000 fliers with safety information have been distributed to families with school-age children. School children are given pledge cards where they pledge to never walk or bike along tracks, cross tracks when a train is moving and to “b safe” near railroads
- 500 bus drivers have received training about train activity and safe driving near tracks.
- Brightline has employed off-duty police at key crossings to step up enforcement of trespassing laws
- Working with local cities, Brightline is installing additional safety features where feasible.

Brightline is operating on a rail corridor that has been in continuous use since 1895, private property on which AAF/Brightline and Florida East Coast Railway share ownership. Having spent more than \$1.5 billion dollars to date, none of which are taxpayer funds, we are committed to completing this rail system to Orlando, making real a long-sought Florida dream to give our 20 million residents and 115 million visitors an alternative to the highway.

Strong statewide support of Brightline notwithstanding, the two counties opposing this passenger rail have made it clear their goal is to stop this private company from completing the system, thus preventing Brightline from using its private property to restore passenger rail to the corridor and provide this much needed public service to a growing state.

To accomplish their goal, they have gone to great lengths to create fear among the general populace, conjuring up scenarios that defy logic and which have not been demonstrated to have occurred in other rail corridors around the nation.

To date, the two counties currently fighting Brightline have spent more than \$7 million in tax dollars to fight this rail project. In January of this year, they filed their 9th legal action against this project. They have been unsuccessful in their eight previous actions.

It is unfortunate that a Committee of the United States Congress is now being used, while we are in litigation again, by a small group of rail opponents to referee a local dispute they have not won in court.

We believe it would be more productive for them to sit down with us and engage in reasonable dialogue that can result in reasonable yet tangible benefits, a dialogue in which Brightline is more than willing to participate.

As we approach our Miami service launch date, and continue work on the expansion of our system to Orlando, I welcome the opportunity to have any member of this committee visit our amazing stations in South Florida and enjoy a train travel experience that has already become the new benchmark for intercity passenger rail in America.

Thank you for the opportunity to share these thoughts with you today. I am happy to answer any questions or comments you may have.

ⁱ TriRail does not differentiate suicide from other categories

ⁱⁱ Spotlight on Highway Safety, Governors Highway Safety Association

ⁱⁱⁱ Florida Department of Highway Safety and Motor Vehicles